

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LYNN GAVIN, ET AL.,
Plaintiffs,

v.

OFFICE OF THE MAYOR, ET AL.,
Defendants.

Case No. 16-cv-04974-YGR

**ORDER RE: PLAINTIFFS' PROOF OF
SERVICE**

Re: Dkt. No. 34

By Order dated November 16, 2017, the Court allowed plaintiffs an additional opportunity to serve the federal defendants in this case, even though the Court remains skeptical of the viability of any claim. Plaintiffs were to perfect service by January 16, 2017. The Court extended the time once already to February 10, 2017. Plaintiffs' most recent attempt to effectuate service is inadequate. The Court notes that plaintiff Gavin mailed (not registered or certified) a copy of the complaint to the U.S. Attorney General in Washington, DC. (Dkt. No. 34.) This is insufficient. Plaintiffs must properly serve the federal defendants pursuant to Federal Rules of Civil Procedure 4(i)(1) and (2) governing service on the United States, its agencies, and its employees. Rule 4(i)(1) states as follows:

To serve the United States, a party must:

(A)(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought--or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk—or **(ii)** send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office; [and]

(B) send a copy of each by registered or certified mail to the Attorney General of

the United States at Washington, D.C.; and

(C) if the action challenges an order of a nonparty agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.

Rule 4(i)(2) states as follows:

To serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer, or employee.

Plaintiffs are directed to serve the second amended complaint upon all defendants by March 20, 2017. Failure to do will result in dismissal without prejudice of this action.

Plaintiff Gavin is further advised that, in the future, any attempt to circumvent Judge Chen's vexatious litigant order by filing in state court will not shield her from this Court applying that standard if that case is properly removed to the federal court.

IT IS SO ORDERED.

Dated: February 23, 2017


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

United States District Court
Northern District of California